



CORPORATION SERVICE COMPANY®

## Notice of Service of Process

BHY / ALL  
 Transmittal Number: 10817926  
 Date Processed: 02/07/2013

Primary Contact: Nancy Rust  
 LCA-VISION, INC.  
 7840 Montgomery Road  
 Cincinnati, OH 45236

Copy of transmittal only provided to: Mary Brice  
 Donn Kremmel

Entity:	LCA-Vision Inc. Entity ID Number 1848227
Entity Served:	LCA-Vision, Inc.
Title of Action:	Sheri Brooks vs. LCA-Vision, Inc.
Document(s) Type:	Summons/Complaint
Nature of Action:	Discrimination
Court/Agency:	Multnomah County Circuit Court, Oregon
Case/Reference No:	130201589
Jurisdiction Served:	Oregon
Date Served on CSC:	02/06/2013
Answer or Appearance Due:	30 Days
Originally Served On:	CSC
How Served:	Personal Service
Sender Information:	Richard C. Busse 503-248-0504

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC  
 CSC is SAS70 Type II certified for its Litigation Management System.  
 2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

## In the Circuit Court of the State of Oregon

For the County of MultnomahSHERI BROOKS,

Plaintiff(s),

vs.

LCA-VISION, INC., a Delaware  
corporation,

Defendant(s):

Case No. 1302-01589

SUMMONS

To CORPORATION SERVICE COMPANY285 Liberty Street NESalem, OR 97301Registered Agent for LCA-Vision, Inc.

Defendant

You are hereby required to appear and defend the complaint filed against you in the above entitled action within thirty (30) days from the date of service of this summons upon you, and in case of your failure to do so, for want thereof, plaintiff(s) will apply to the court for the relief demanded in the complaint.

## NOTICE TO THE DEFENDANT: READ THESE PAPERS CAREFULLY!

You must "appear" in this case or the other side will win automatically. To "appear" you must file with the court a legal document called a "motion" or "answer." The "motion" or "answer" must be given to the court clerk or administrator within 30 days along with the required filing fee. It must be in proper form and have proof of service on the plaintiff's attorney or, if the plaintiff does not have an attorney, proof of service upon the plaintiff.

If you have any questions, you should see an attorney immediately. If you need help in finding an attorney, you may contact the Oregon State Bar's Lawyer Referral Service online at [www.oregonstatebar.org](http://www.oregonstatebar.org) or by calling (503) 684-3763 (in the Portland metropolitan area) or toll-free elsewhere in Oregon at (800) 452-7636.

SIGNATURE OF ☒ ATTORNEY ☐ AUTHOR FOR PLAINTIFFRichard C. Busse, OSB #74050

ATTORNEY'S / AUTHOR'S NAME (TYPED OR PRINTED)

BAR NO. (IF ANY)

621 S.W. Morrison Street, Suite 521

ADDRESS

Portland, Oregon 97205 (503) 248-0504

CITY

STATE

ZIP

PHONE

(503) 248-2131 rbusse@busseandhunt.com

FAX (IF ANY)

ATTORNEY'S E-MAIL ADDRESS (IF ANY)

TRIAL ATTORNEY IF OTHER THAN ABOVE (TYPED OR PRINTED)

BAR NO.

TO THE OFFICER OR OTHER PERSON SERVING THIS SUMMONS: You are hereby directed to serve a true copy of this summons, together with a true copy of the complaint mentioned therein, upon the individual(s) or other legal entity(ies) to whom or which this summons is directed, and to make your proof of service on the reverse hereof or upon a separate similar document which you shall attach hereto.

ATTORNEY(S) FOR PLAINTIFF(S)





## PROOF OF SERVICE

STATE OF \_\_\_\_\_, County of \_\_\_\_\_ ss.

I hereby certify that I made service of the foregoing summons upon the individuals and other legal entities to be served, named below, by delivering or leaving true copies of the summons and the complaint mentioned therein, certified to be such by the attorney for the plaintiff, as follows:

## Personal Service Upon Individual(s)

Upon \_\_\_\_\_, by delivering such true copies to \_\_\_\_\_, personally and in person, at \_\_\_\_\_, on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M.

Upon \_\_\_\_\_, by delivering such true copies to \_\_\_\_\_, personally and in person, at \_\_\_\_\_, on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M.

## Substituted Service Upon Individual(s)\*

Upon \_\_\_\_\_, by delivering such true copies at his/her dwelling house or usual place of abode, to-wit: \_\_\_\_\_, to \_\_\_\_\_, who is a person 14 years of age or older and a member of the household of the person served on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M.

Upon \_\_\_\_\_, by delivering such true copies at his/her dwelling house or usual place of abode, to-wit: \_\_\_\_\_, to \_\_\_\_\_, who is a person 14 years of age or older and a member of the household of the person served on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M.

## Office Service Upon Individual(s)\*

Upon \_\_\_\_\_, at the office which he/she maintains for the conduct of business at \_\_\_\_\_, by leaving such true copies with \_\_\_\_\_, the person who is apparently in charge, on \_\_\_\_\_, during normal working hours, at \_\_\_\_\_ o'clock \_\_\_\_M.

## Mail Service Upon Individual(s)\*\*

Upon \_\_\_\_\_, by mailing such true copies to him/her by first class mail and ALSO by (check one): ☐ certified or registered mail with return receipt requested ☐ express mail.

## Service Upon Tenant(s) of a Mail Agent\*\*\*

Upon \_\_\_\_\_, by delivering such true copies to \_\_\_\_\_, a person apparently in charge of \_\_\_\_\_, which is the place where the mail agent receives mail for the tenant(s), its address being \_\_\_\_\_, on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M. Prior to effecting such service, I made diligent inquiry but could not find the tenant(s) so served.

## Service on Corporations, Limited Liability Companies, Limited Partnerships, General and Limited Liability Partnerships or Unincorporated Associations

Upon \_\_\_\_\_, by \_\_\_\_\_, (NAME OF CORPORATION, LIMITED LIABILITY COMPANY, ETC.)

(a) delivering such true copies, personally and in person, to \_\_\_\_\_ who is a/the \_\_\_\_\_ (Specify registered agent, officer (by title), managing member, general partner, etc.) thereof; OR

(b) leaving such true copies with \_\_\_\_\_, the person who is apparently in charge of the office of \_\_\_\_\_, who is a/the \_\_\_\_\_ (Specify registered agent, officer (by title) director, general partner, managing agent, etc.) thereof;

at \_\_\_\_\_, on \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_M.

Dated \_\_\_\_\_

I further certify that I am a competent person 18 years of age or older and a resident of the state of service or the State of Oregon, and that I am not a party to nor an officer, director or employee of, nor attorney for any party, corporate or otherwise; that the person, firm or corporation served by me is the identical person, firm or corporation named in the action.

By \_\_\_\_\_ Sheriff  
Deputy

Dated \_\_\_\_\_

SIGNATURE

TYPE OR PRINT NAME

ADDRESS

CITY STATE ZIP PHONE

The signature lines on the left should be used only by an Oregon county sheriff or deputy. All other servers should complete the certification on the right. The Proof of Service above contains most, but not all, of the permissible methods of service. For example, this form does not include proof of service upon a minor or incompetent person. See ORCP 7 D for permissible service methods with respect to particular parties.

\*Where substituted or office service is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed, by first class mail, true copies of the summons and the complaint to the defendant at defendant's dwelling house or usual place of abode, together with a statement of the date, time and place at which such service was made. Use S-N Form No. 1149, Notice of Substituted or Office Service, or the equivalent.

\*\*Service by mail may be made when required or allowed by ORCP 7 or by statute, except as otherwise permitted. If the summons and complaint are mailed, this certification may be made either by the person completing the mailing or by the attorney for any party, stating the circumstances of mailing and including the return receipt as an attachment. An attorney completing the mailing should delete "nor attorney for" from the last paragraph of this document. Failure to serve a summons in accordance with ORCP 7 and other applicable rules and statutes may affect or nullify the validity of such service.

\*\*\*Where service upon a tenant of a mail agent is used, the plaintiff, as soon as reasonably possible, shall cause to be mailed, by first class mail, true copies of the summons and the complaint to the defendant(s) at the address at which the mail agent receives mail for the defendant(s) and to any other mailing address of the defendant(s) then known to the plaintiff, together with a statement of the date, time, and place at which delivery was made.

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4  
5 IN THE CIRCUIT COURT OF THE STATE OF OREGON

6 FOR THE COUNTY OF MULTNOMAH

7 SHERI BROOKS

8 Plaintiff,

9 v.

10  
11 LCA-VISION, INC., a Delaware  
corporation,

12 Defendant.

Case No. **130201589**

COMPLAINT  
(Wrongful Discharge; Sex  
Discrimination/Retaliation)

CLAIMS NOT SUBJECT TO  
MANDATORY ARBITRATION

Prayer Amount: \$500,000

13  
14 Plaintiff alleges:

15 **FIRST CLAIM FOR RELIEF**

16 (Wrongful Discharge)

17 1.

18  
19 Plaintiff is a female resident of the State of Oregon.

20 2.

21 Defendant LCA-Vision, Inc. is a Delaware corporation doing business in Oregon.

22 Defendant at all material times acted through its agents and employees, who at all material  
23 times acted within the course and scope of their agency and employment for Defendant.

24  
25 ///

26 ///

Page 1 - COMPLAINT

BUSSE & HUNT  
Attorneys at Law  
521 AMERICAN BANK BUILDING  
621 S.W. MORRISON STREET  
PORTLAND, OREGON 97205  
TELEPHONE (503) 248-0504

Exhibit A / Page 4

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3.

Plaintiff was employed by Defendant from October 2011 until on or about January 17, 2013, when Defendant terminated her employment.

4.

Prior to Plaintiff's termination, Plaintiff reported to Defendant's Human Resources Department what she believed in good faith to be gender discrimination in the treatment she was receiving from her supervisor, Regional Manager Dave Williams.

5.

Plaintiff was terminated by Defendant in substantial part in retaliation for reporting gender discrimination.

6.

As a result of said termination Plaintiff has suffered and will suffer economic loss in a sum to be proven at trial, which sum is alleged to be \$250,000.

7.

As a further result of said termination Plaintiff has suffered and will suffer emotional distress and injury to reputation in a sum to be proven at trial, which sum is alleged to be \$250,000.

8.

Defendant's acts were malicious and/or reckless and Plaintiff reserves the right to allege punitive damages.

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1. **SECOND CLAIM FOR RELIEF**

2 (Sex Discrimination/Retaliation - ORS chapter 659A)

3 9.

4 Plaintiff realleges paragraphs 1 through 8.

5 10.

6 Defendant discriminated and/or retaliated against Plaintiff by terminating her in  
7 substantial part because of her gender and/or because she had reported gender discrimination.  
8

9 11.

10 Plaintiff is entitled to an award of reasonable attorneys' and expert witness fees  
11 pursuant to ORS 659A.885 and 20.107, respectively.  
12

13 WHEREFORE, Plaintiff prays for judgment as alleged in the claims stated above.

14 DATED this 1st day of February, 2013.

15 BUSSE & HUNT

16  
17 

18 RICHARD C. BUSSE, OSB #74050  
19 Telephone: (503) 248-0504  
20 Facsimile: (503) 248-2131  
21 [rbusse@busseandhunt.com](mailto:rbusse@busseandhunt.com)  
22 Of Attorneys for Plaintiff Sheri Brooks

23 TRIAL ATTORNEY:  
24 RICHARD C. BUSSE, OSB #74050

25 P:\WPDOCS\BROOKS\Complaint.wpd  
26

IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF MULTNOMAH

SHERI BROOKS,

Plaintiff,

v.

LCA-VISION, INC., a Delaware  
corporation,  
Defendant.

Case No. 1302-01589

PLAINTIFF'S FIRST REQUEST  
FOR PRODUCTION OF  
DOCUMENTS

**To: Defendant and Its Attorneys:**

Pursuant to ORCP 36B and ORCP 43, Plaintiff requests that Defendant produce the documents and tangible things described below for inspection and copying:

DEFINITIONS

A. As used herein, "document(s)" refers to original papers, tapes, disks, or other substances on which communications, data, or information is recorded or stored, whether made by manual, mechanical, photographic or electronic process. This definition includes, but is not limited to, all drafts or superseded revisions of each document(s), and e-mail messages, and backup tapes and deleted records of e-mail messages.

B. As used herein, "document(s)" includes, but is not limited to: letters, memoranda, notes, papers of any kind or character, pamphlets, brochures, books, ledgers,

Page

1 - PL'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

RUSSE & HUNT  
Attorneys at Law  
521 AMERICAN BANK BUILDING  
621 S.W. MORRISON STREET  
PORTLAND, OREGON 97205  
TELEPHONE: (503) 248-0504

Exhibit A / Page 7

1 reports, receipts, invoices, bills, checks, purchase orders, contracts, agreements, evidence of  
 2 indebtedness, schedules, calendars, diaries, minutes of meetings, and computer input or  
 3 printouts.

4  
 5 C. As used herein, and unless otherwise specifically stated herein, "Defendant"  
 6 include, but are not limited to: LCA-Vision, Inc., and all parent corporations and successors  
 7 in interest of Defendant, and any and all present or former officers, directors, agents,  
 8 employees, and all other persons, firms and corporations, acting or purporting to act on behalf  
 9 of Defendant.

#### 10 TIME AND PLACE

11  
 12 The documents and tangible things requested herein shall be produced within forty-  
 13 five (45) days of service of this request at Busse & Hunt, 521 American Bank Building, 621  
 14 SW Morrison Street, Portland, Oregon 97205, or at such other time and place as may be  
 15 agreed upon by the parties in the interim.

#### 16 DOCUMENTS AND TANGIBLE THINGS REQUESTED

17  
 18 **REQUEST NO. 1:** Plaintiff's personnel file or files wherever and by whomever  
 19 maintained.

20 **REQUEST NO. 2:** Any documents pertaining to Plaintiff's employment,  
 21 conversations with Human Resources, complaint of discrimination, performance, and/or  
 22 termination, whether or not contained in a personnel file, including, but not limited to, any  
 23 supervisor or Human Resources note, e-mail, memorandum or file; and any documents  
 24 concerning any praise of or complaint about Plaintiff's performance.  
 25  
 26



1           **REQUEST NO. 3:** Any documents, notes, memos, reports or witness statements  
2 relative to any investigation conducted concerning Plaintiff, Plaintiff's work performance, or  
3 any complaint made by Plaintiff about her supervisor.  
4

5           **REQUEST NO. 4:** Any documents concerning the yield for the Center's at which  
6 Plaintiff worked, for each month in 2011, 2012 and 2013.

7           **REQUEST NO. 5:** Any documents that pertain to whether doctors were closing  
8 charts properly in 2012 or 2013.  
9

10           **REQUEST NO. 6:** Any documents that would reflect if Plaintiff and others were  
11 putting charts into computers as requested by her supervisor in 2012 or 2013.

12           **REQUEST NO. 7:** Any work rules or performance standards which applied to  
13 Plaintiff at any time during employment.

14           **REQUEST NO. 8:** Any training materials which were supplied to Plaintiff, or to  
15 Plaintiff's supervisor as to the training Plaintiff should receive or the counseling or corrective  
16 action which should be given in the event of any perceived deficiency in Plaintiff's  
17 performance.  
18

19           **REQUEST NO. 9:** Any personnel rules or regulations that applied to Plaintiff,  
20 whether given to Plaintiff directly, or given to Plaintiff's supervisor or manager to apply.  
21

22           **REQUEST NO. 10:** Any employee handbook or manual which was given to  
23 Plaintiff at any time during employment, including any revisions thereto.

24           **REQUEST NO. 11:** Any record concerning the amount of salary and fringe benefits  
25 Plaintiff was to receive any time during employment.  
26

**REQUEST NO. 12:** Any documents Defendant believe relate to any asserted poor performance by Plaintiff.

**REQUEST NO. 13:** The personnel file of Plaintiff's successor.

**REQUEST NO. 14:** The most recent federal income tax return and financial statement for Defendant.

**REQUEST NO. 15:** Any liability insurance policy which may provide any coverage whatsoever to Defendant for any claim asserted in the operative Complaint, including the policy declarations and binder.

**REQUEST NO. 16:** All documents pertaining in any way to any agreement, promise, request, or demand that Defendant or its insurance carrier(s) pay or be required to pay any sum in contribution to defense costs for Defendant.

**REQUEST NO. 17:** All documents pertaining in any way to the conditions under which Defendant is being provided a defense by any entity or individual, including without limitation all documents stating or referring to a “reservation of rights.”

REQUEST NO. 18: Any document that Defendant believes supports any of its defenses.

## PROCEDURE

A. Produce all documents in your possession, custody or control. If you are unable to produce any document requested, state the location of the document and the name of the person or organization in possession of the document.

////